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EXAMINER

LEE, PHILIP C

ART UNIT PAPER NUMBER

2154

DATE MAILED: 01/26/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/927,224	GURUMOORTHY ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Philip C. Lee	2154	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 04 November 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-11, 13-24 and 31-34 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11, 13-24 and 31-34 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☒ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some    \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

1. This action is responsive to the amendment and remarks filed on November 4, 2005.
2. Claims 1-11, 13-24 and 31-34 are presented for examination and claims 12 and 25-30 are canceled.
3. The text of those sections of Title 35, U.S. code not included in this office action can be found in a prior office action.
4. Applicant is required to submit an oath or declaration in proper form, identifying the application by application number and filing date, or a certificate by the officer before whom the original oath was taken stating that the oath was executed within the jurisdiction of the officer before whom the oath was taken when the oath was administered. The oath or declaration must properly identify the application of which it is to form a part, preferably by application number and filing date in the body of the oath or declaration. See MPEP §§ 602.01 and 602.02. The office did not receive a declaration filed February 12, 2002, please submit another copy of the declaration.
5. Examiner is requesting the applicant to submit another copy of the declaration.

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-11 and 13-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over McCrory et al, U.S. Patent 6,697,962 (hereinafter McCrory) in view of Sewell et al, U.S. Patent Application Publication, 2002/0165952 (hereinafter Sewell) and further in view of Turek et al, U.S. Patent 6,460,070 (hereinafter Turek).

8. McCrory, Sewell and Turek were cited in the last office action.

9. As per claims 1, 7 and 13, McCrory taught the invention substantially as claimed comprising:

a storage medium comprising machine-readable instructions stored thereon (col. 10, line 44-col. 11, line 4) for:

launching a diagnostic agent process at a host processing system upon boot-up of the host processing system (col. 4, lines 42-44);

receiving data to provide one or more diagnostic procedures for the diagnostic agent process from a remote processing system via a data network coupled to the host processing system (col. 4, lines 50-56);

upon receipt of the one or more diagnostic procedures, automatically executing the one or more diagnostic procedures on the host processing system (col. 4, lines 59-61).

10. McCrory did not teach transmitting one or more diagnostic results. Sewell taught transmitting the one or more diagnostic results to a remote processing system (page 6, paragraphs 52 and 53).

11. It would have been obvious to one having ordinary skill in the art at the time of the invention was made to combine the teachings of McCrory and Sewell because Sewell's method of transmitting diagnostic results would increase the user's alertness in McCrory's system by allowing the results of the diagnostic procedure to be notified to the user.

12. Although, McCrory taught executing one or more of the diagnostic procedures on the host processing system using various medication and alternative construction (i.e., diagnostic board is just an example of the preferred embodiment) (col. 10, lines 33-47), however, McCrory and Sewell did not specifically teach diagnostic procedures are executed using a firmware interface. Turek taught a similar invention comprising:

executing one or more of the diagnostic procedures on the host processing system using a firmware interface (col. 7, line 54-col. 8, line 18; col. 10, lines 36-41).

13. It would have been obvious to one having ordinary skill in the art at the time of the invention was made to combine the teachings of McCrory, Sewell and Turek because Turek's

teaching of executing one or more of the diagnostic procedures on the host processing system using a firmware interface would increase the efficiency of McCrory's and Sewell's system by providing automatic means of diagnosing and correcting network problems in a network (col. 1, lines 6-11, 59-62).

14. As per claim 19, McCrory taught the invention substantially as claimed comprising:  
a wireless network (col. 6, lines 35-41) (it is inherent that wireless modem is used for a wireless network);  
a diagnostic source (120, fig. 1) coupled to the wireless network (130, fig. 1); and  
a host processing system comprising:  
logic (e.g. processor) (col. 10, line 44-55) to launch a diagnostic agent process upon boot-up of the host processing system (col. 4, lines 42-44);  
logic (e.g. processor) (col. 10, line 44-55) to receive data to provide one or more diagnostic procedures for the diagnostic agent process from the diagnostic source via the wireless network (col. 4, lines 50-56); and  
logic (e.g. processor) (col. 10, line 44-55) to upon receipt of the one or more diagnostic procedures, automatically execute the one or more diagnostic procedures (col. 4, lines 59-61).

15. McCrory did not teach transmitting one or more diagnostic results. Sewell taught transmitting the one or more diagnostic results to a diagnostic source (page 6, paragraphs 52 and 53).

16. It would have been obvious to one having ordinary skill in the art at the time of the invention was made to combine the teachings of McCrory and Sewell because Sewell's method of transmitting diagnostic results would increase the user's alertness in McCrory's system by allowing the results of the diagnostic procedure to be notified to the user.

17. Although, McCrory taught executing one or more of the diagnostic procedures on the host processing system using various medication and alternative construction (i.e., diagnostic board is just an example of the preferred embodiment) (col. 10, lines 33-47), however, McCrory and Sewell did not specifically teach diagnostic procedures are executed using a firmware interface. Turek taught a similar invention comprising:

executing one or more of the diagnostic procedures on the host processing system using a firmware interface (col. 7, line 54-col. 8, line 18; col. 10, lines 36-41).

18. It would have been obvious to one having ordinary skill in the art at the time of the invention was made to combine the teachings of McCrory, Sewell and Turek because Turek's teaching of executing one or more of the diagnostic procedures on the host processing system using a firmware interface would increase the efficiency of McCrory's and Sewell's system by providing automatic means of diagnosing and correcting network problems in a network (col. 1, lines 6-11, 59-62).

19. As per claims 2 and 8, McCrory, Sewell and Turek taught the invention substantially as claimed in claims 1 and 7 above. Sewell further taught wherein the storage medium comprises machine-readable instructions stored thereon (col. 10, line 44-col. 11, line 4) for:

formatting the diagnostic results for transmission to a destination (page 6, paragraph 54);

and

transmitting the formatted diagnostic results to the destination through the data network (page 6, paragraph 54).

20. It would have been obvious to one having ordinary skill in the art at the time of the invention was made to combine the teachings of McCrory, Sewell and Turek because Sewell's method of formatting the diagnostic results would increase the compatibility of McCrory's and Turek's systems by allowing the diagnostic results to be formatted in an appropriate formatting language such as extensible markup language that would be suitable for the receiving device.

21. As per claims 14 and 20, McCrory, Sewell and Turek taught the invention substantially as claimed in claims 13 and 19 above. Sewell further taught comprising:

logic (e.g. processor) (col. 10, line 44-55) to format the diagnostic results for transmission to a destination (page 6, paragraph 54); and

logic (e.g. processor) (col. 10, line 44-55) to transmit the formatted diagnostic results to the destination through the wireless (i.e. data) network (page 6, paragraph 54).



22. It would have been obvious to one having ordinary skill in the art at the time of the invention was made to combine the teachings of McCrory, Sewell and Turek because Sewell's method of formatting the diagnostic results would increase the compatibility of McCrory's and Turek's systems by allowing the diagnostic results to be formatted in an appropriate formatting language such as extensible markup language that would be suitable for the receiving device.

23. As per claims 3 and 9, McCrory, Sewell and Turek taught the invention substantially as claimed in claims 2 and 8 above. Sewell further taught wherein the storage medium comprises machine-readable instructions stored thereon (col. 10, line 44-col. 11, line 4) for formatting the diagnostic results according to an extensible markup language (XML) (page 6, paragraph 54).

24. It would have been obvious to one having ordinary skill in the art at the time of the invention was made to combine the teachings of McCrory, Sewell and Turek because Sewell's method of formatting the diagnostic results would increase the compatibility of McCrory's and Turek's systems by allowing the diagnostic results to be formatted in an appropriate formatting language such as extensible markup language that would be suitable for the receiving device.

25. As per claims 15 and 21, McCrory, Sewell and Turek taught the invention substantially as claimed in claims 14 and 20 above. Sewell further taught comprising:

logic (e.g. processor) (col. 10, line 44-55) to format the diagnostic results according to an extensible markup language (page 6, paragraph 54).

26. It would have been obvious to one having ordinary skill in the art at the time of the invention was made to combine the teachings of McCrory, Sewell and Turek because Sewell's method of formatting the diagnostic results would increase the compatibility of McCrory's and Turek's systems by allowing the diagnostic results to be formatted in an appropriate formatting language such as extensible markup language that would be suitable for the receiving device.

27. As per claims 4 and 10, McCrory, Sewell and Turek taught the invention substantially as claimed in claims 1 and 7 above. McCrory further taught wherein the storage medium comprises machine-readable instructions stored thereon (col. 10, line 44-col. 11, line 4) for transmitting a message requesting the one or more diagnostic procedures through the data network in response to launching the diagnostic agent process on the host processing system (col. 7, lines 2-27).

28. As per claims 16 and 22, McCrory, Sewell and Turek taught the invention substantially as claimed in claims 13 and 19 above. McCrory further taught comprising logic (e.g. processor) (col. 10, line 44-55) to transmit a message requesting the one or more diagnostic procedures through the wireless (i.e. data) network in response to launching the diagnostic agent process on the processing system (col. 7, lines 2-27).

29. As per claims 5 and 11, McCrory, Sewell and Turek taught the invention substantially as claimed in claims 1 and 7 above. McCrory further taught wherein the storage medium comprises machine-readable instructions stored thereon (col. 10, line 44-col. 11, line 4) for launching an agent process to the processing system (col. 4, lines 42-43), the agent process comprising logic to

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transmit a request for the data to provide one or more diagnostic procedures to a diagnostic procedure source through the data network in response to launching the diagnostic agent process (col. 7, lines 2-27).

30. As per claims 17 and 23, McCrory, Sewell and Turek taught the invention substantially as claimed in claims 13 and 19 above. McCrory further taught comprising logic (e.g. processor) (col. 10, line 44-55) to transmit a request for the data to provide one or more diagnostic procedures to a diagnostic procedure source through the wireless (i.e. data) network in response to launching the diagnostic agent process (col. 7, lines 2-27).

31. As per claim 6, McCrory, Sewell and Turek taught the invention substantially as claimed in claim 1 above. McCrory further taught comprising:

transmitting an identifying code to a diagnostic source through the data network, the identifying code being associated with the diagnostic agent process (col. 4, lines 22-28; col. 5, lines 29-32); and  
selecting the data to provide one or more diagnostic procedures at the diagnostic agent process based upon the identifying code (col. 4, lines 28-31); and  
transmitting the selected data to the diagnostic agent process through the data network (col. 4, lines 31-35).

32. As per claims 18 and 24, McCrory, Sewell and Turek taught the invention substantially as claimed in claims 13 and 23 above. McCrory further taught comprising:

logic (e.g. processor) (col. 10, line 44-55) to transmit an identifying code to a diagnostic source through the wireless (i.e. data network), the identifying code being associated with the diagnostic agent process (col. 4, lines 22-28; col. 5, lines 29-32); and logic (e.g. processor) (col. 10, line 44-55) to select data to provide one or more diagnostic procedures at the agent process based upon the identifying code (col. 4, lines 28-31); and logic (e.g. processor) (col. 10, line 44-55) to transmit the selected data to the diagnostic agent process through the wireless (i.e. data) network (col. 4, lines 31-35).

33. Claims 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over McCrory and Sewell in view of Cidon et al, U.S. Patent Application Publication 2002/0133575 (hereinafter Cidon).

34. As per claim 31, McCrory taught the invention substantially as claimed comprising:  
a storage medium comprising machine-readable instruction stored thereon for (col. 10, line 44-col. 11, line 4) for:  
a diagnostic agent process at a host processing system to be launched upon boot-up of the host processing system (col. 4, lines 42-44); and  
transmitting data to the host processing system providing one or more diagnostic procedures for the diagnostic agent process, wherein the one or more diagnostic procedures are automatically executed by the diagnostic agent process upon receipt by the host processing system (col. 4, lines 50-61).

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35. McCrory did not teach receiving one or more diagnostic results. Sewell taught receiving the one or more diagnostic results from the host processing system (page 6, paragraphs 52 and 53).

36. It would have been obvious to one having ordinary skill in the art at the time of the invention was made to combine the teachings of McCrory and Sewell because Sewell's method of receiving diagnostic results would increase the user's alertness in McCrory's system by allowing the results of the diagnostic procedure to be notified to the user.

37. McCrory and Sewell did not specifically teach transmitting a diagnostic agent process to a host processing system. Cidon taught transmitting a diagnostic agent process to a host processing system (page 2, paragraphs 21 and 22; page 5, paragraph 64).

38. It would have been obvious to one having ordinary skill in the art at the time of the invention was made to combine the teachings of McCrory, Sewell and Cidon because Cidon's teaching of transmitting a diagnostic agent process to a host processing system would increase the efficiency of McCrory's and Sewell's systems by allowing an administrator to diagnose a problem encountered by a remote user (page 2, paragraph 20).

39. As per claim 32, McCrory, Sewell and Cidon taught the invention substantially as claimed in claim 31 above. Sewell further taught wherein the storage medium comprises

machine-readable instructions stored thereon (col. 10, line 44-col. 11, line 4) for formatting the diagnostic results according to an extensible markup language (XML) (page 6, paragraph 54).

40. It would have been obvious to one having ordinary skill in the art at the time of the invention was made to combine the teachings of McCrory, Sewell and Cidon because Sewell's method of formatting the diagnostic results would increase the compatibility of McCrory's and Cidon's systems by allowing the diagnostic results to be formatted in an appropriate formatting language such as extensible markup language that would be suitable for the receiving device.

41. As per claim 33, McCrory, Sewell and Cidon taught the invention substantially as claimed in claim 31 above. Sewell further taught wherein the storage medium comprises machine-readable instructions stored thereon (col. 10, line 44-col. 11, line 4) for receiving a formatted version of the one or more diagnostic results via a data network (page 6, paragraph 54).

42. It would have been obvious to one having ordinary skill in the art at the time of the invention was made to combine the teachings of McCrory, Sewell and Cidon for the same reason set forth in claim 32 above.

43. As per claim 34, McCrory, Sewell and Cidon taught the invention substantially as claimed in claim 31 above. McCrory further taught wherein the storage medium comprises machine-readable instructions stored thereon (col. 10, line 44-col. 11, line 4) for receiving a

message requesting the one or more diagnostic procedures in response to launching the diagnostic agent process (col. 7, lines 2-27).

## CONCLUSION

44. Applicant's arguments with respect to claims 1-11, 13-24 and 31-34, filed 11/4/05, have been fully considered but are not deemed to be persuasive.

45. In the remark applicant argued that

(1) Any combination of McCrory, Sewell and Turek does not teach (a) upon receipt of the one or more diagnostic procedure, automatically executing the one or more diagnostic procedures on the host processing system or (b) transmitting the one or more diagnostic results to the remote processing system.

46. In response to point (1)(a), McCrory taught an agent performs diagnostic procedure in response to retrieving the diagnostic procedure from the server center. This means the retrieved diagnostic procedure acts as a trigger to execute the diagnostic procedure without prompting or interacting with a user, thus the diagnostic procedure is automatically executed by the agent without user interaction (col. 4, lines 59-61; col. 8, lines 55-60).

47. In response to point (1)(b), Sewell taught transmitting reports of diagnostic procedures executed as diagnostic results to a remote processing system (page 6, paragraphs 52-53).

48. A shortened statutory period for reply to this Office action is set to expire **THREE MONTHS** from the mailing date of this action. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Philip C Lee whose telephone number is (571)272-3967. The examiner can normally be reached on 8 AM TO 5:30 PM Monday to Thursday and every other Friday. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Follansbee can be reached on (571)272-3964. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

P.L.

  
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